

MONTANA LEGISLATIVE HISTORY

Chapter 506 19 93

Bill H 382 S _____ Original bill & history 9 C

H. Committee on Taxation

Hearing Date(s) 2/4 1 C

2/9 1 C

_____ C

_____ C

Date Out _____ C

S. Committee on Taxation

Hearing Date(s) 3/23 1 C

4/2 1 C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes 1 No

Committee _____

Report _____

3/25 TRANSMITTED TO GOVERNOR
 3/29 SIGNED BY GOVERNOR
 CHAPTER NUMBER 219
 EFFECTIVE DATE: 03/01/94

HB 382 INTRODUCED BY FOSTER, ET AL.

ESTABLISH VALUE OF LIMESTONE FOR NET PROCEEDS PROPERTY TAX
 AND RESOURCE INDEMNITY TRUST TAX

1/28	INTRODUCED		
1/28	REFERRED TO TAXATION		
1/28	FIRST READING		
1/28	FISCAL NOTE REQUESTED		
2/01	FISCAL NOTE RECEIVED		
2/02	FISCAL NOTE PRINTED		
2/04	HEARING		
2/10	COMMITTEE REPORT—BILL PASSED		
2/13	2ND READING PASSED	95	0
2/22	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO TAXATION		
3/23	HEARING		
4/03	COMMITTEE REPORT—BILL CONCURRED		
4/08	2ND READING CONCURRED	33	11
4/12	3RD READING CONCURRED	44	4
	RETURNED TO HOUSE		
4/19	SIGNED BY SPEAKER		
4/20	SIGNED BY PRESIDENT		
4/21	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 506		
	EFFECTIVE DATE: 04/24/93		

HB 383 INTRODUCED BY BRANDEWIE, ET AL.

GENERALLY REVISE BOARD OF REALTY LAWS; CREATE REAL ESTATE
 EDUCATION COUNCIL

1/28	INTRODUCED		
1/28	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
1/28	FIRST READING		
1/28	FISCAL NOTE REQUESTED		
2/02	FISCAL NOTE RECEIVED		
2/04	FISCAL NOTE PRINTED		
2/10	HEARING		
2/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	81	15
2/16	3RD READING PASSED	84	16
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO BUSINESS & INDUSTRY		
3/17	HEARING		
3/24	COMMITTEE REPORT—BILL NOT PASSED		
3/24	ADVERSE COMMITTEE REPORT ADOPTED	47	1

HB 384 INTRODUCED BY SIMPKINS, ET AL.

PROVIDE BOARD OF PUBLIC EDUCATION MAY NOT ADOPT RULES,
 POLICIES, OR STANDARDS RELATING TO ACCREDITATION STANDARDS

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HOUSE BILL NO. 382

INTRODUCED BY FOSTER, GILBERT, KOEHNKE, SWYSGOOD, REA,
GRIMES, GAGE, DRISCOLL

IN THE HOUSE

UARY 28, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
RUARY 10, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
RUARY 11, 1993	PRINTING REPORT.
RUARY 13, 1993	SECOND READING, DO PASS.
RUARY 15, 1993	ENGROSSING REPORT.
RUARY 22, 1993	THIRD READING, PASSED. AYES, 98; NOES, 0.
RUARY 23, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

CH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
IL 3, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
IL 8, 1993	SECOND READING, CONCURRED IN.
IL 12, 1993	THIRD READING, CONCURRED IN. AYES, 44; NOES, 4.
	RETURNED TO HOUSE.

IN THE HOUSE

IL 12, 1993	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 382
 2 INTRODUCED BY Fraser Dilbert Fehske
 3 Supposed Rea James Driscoll
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE VALUE
 5 OF LIMESTONE MINED FOR THE PRODUCTION OF QUICKLIME FOR NET
 6 PROCEEDS PROPERTY TAX PURPOSES AND FOR RESOURCE INDEMNITY
 7 TRUST TAX PURPOSES; ESTABLISHING A SPECIFIC RESOURCE
 8 INDEMNITY TRUST TAX RATE FOR LIMESTONE; AMENDING SECTIONS
 9 15-6-131, 15-8-111, 15-23-103, 15-23-106, 15-23-115,
 10 15-23-502, 15-23-503, 15-23-521, 15-38-103, AND 15-38-104,
 11 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
 12 RETROACTIVE APPLICABILITY DATE."
 13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Net proceeds for limestone --
 16 statement -- value. (1) A statement of gross yield and
 17 value, required in 15-23-502, that is filed by a producer of
 18 limestone extracted for the production of quicklime must
 19 contain the following:

20 (a) the name and address of the owner, lessee, or
 21 operator of the mine, together with the name and address of
 22 any person owning or claiming a royalty interest in the
 23 mineral product of the mine or the proceeds derived from the
 24 sale of the mineral product, and the amount or amounts paid
 25 or yielded as royalty to each person during the period

1 covered by the statement;

2 (b) the description and location of the mine;

3 (c) the number of tons of limestone extracted and sold
 4 either as limestone or quicklime from the mine during the
 5 period covered by the statement;

6 (d) the amount and character of the limestone and the
 7 yield of the limestone from the mine, measured in tons,
 8 yielded to the person engaged in mining and to each royalty
 9 holder, if any, during the period covered by the statement;
 10 and

11 (e) the gross yield or value in dollars and cents.

12 (2) (a) For purposes of this section, the gross yield
 13 or value of limestone is determined by multiplying the
 14 number of tons of limestone reported under subsection (1)(c)
 15 by:

16 (i) for the tax year beginning January 1, 1993, 34
 17 cents; and

18 (ii) for the taxable years beginning January 1, 1994,
 19 and thereafter, the product obtained by multiplying 34 cents
 20 by the quotient of the PCE for the first quarter of the year
 21 previous to the taxable year for which the net proceeds
 22 value is being calculated, divided by the PCE for the first
 23 quarter of the 1992 taxable year.

24 (b) "PCE" means the implicit price deflator for
 25 personal consumption expenditures as published quarterly in

the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

NEW SECTION. Section 2. Gross value of product for limestone. As used in this part, when referring to limestone, "gross value of product" is the gross yield or value as determined in [section 1(2)].

Section 3. Section 15-6-131, MCA, is amended to read:

"15-6-131. (Temporary) Class one property -- description -- taxable percentage. (1) Class one property includes the annual net proceeds of all mines and mining claims except coal, travertine, building stone, and metal mines.

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, for talc, as provided in 15-23-515 or, for vermiculite, as provided in 15-23-516 or, for limestone, as provided in [section 1]. (Terminates December 31, 1993--sec. 4, Ch. 700, L. 1991.)

15-6-131. (Effective January 1, 1994) Class one property -- description -- taxable percentage. (1) Class one property includes the annual net proceeds of all mines and mining claims except coal and metal mines.

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, for talc, as provided in 15-23-515

or, for vermiculite, as provided in 15-23-516 or, for limestone, as provided in [section 1]."

Section 4. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds, including but not limited to boats and all watercraft, is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no a national appraisal guide exists does not exist.

(3) The department of revenue or its agents may not

1 adopt a lower or different standard of value from market
2 value in making the official assessment and appraisal of the
3 value of property, except:

4 (a) the wholesale value for agricultural implements and
5 machinery is the loan value as shown in the Official Guide,
6 Tractor and Farm Equipment, published by the national farm
7 and power equipment dealers association, St. Louis,
8 Missouri;

9 (b) for agricultural implements and machinery not
10 listed in the official guide, the department shall prepare a
11 supplemental manual where the values reflect the same
12 depreciation as those found in the official guide; and

13 (c) as otherwise authorized in Title 15 and Title 61.

14 (4) For purposes of taxation, assessed value is the
15 same as appraised value.

16 (5) The taxable value for all property is the
17 percentage of market or assessed value established for each
18 class of property.

19 (6) The assessed value of properties in 15-6-131
20 through 15-6-133 is as follows:

21 (a) Properties in 15-6-131, under class one, are
22 assessed at 100% of the annual net proceeds after deducting
23 the expenses specified and allowed by 15-23-503 or, if
24 applicable, as provided in 15-23-515, or 15-23-516, or
25 [section 1].

1 (b) Properties in 15-6-132, under class two, are
2 assessed at 100% of the annual gross proceeds.

3 (c) Properties in 15-6-133, under class three, are
4 assessed at 100% of the productive capacity of the lands
5 when valued for agricultural purposes. All lands that meet
6 the qualifications of 15-7-202 are valued as agricultural
7 lands for tax purposes.

8 (d) Beginning January 1, 1990, and ending December 31,
9 1993, properties in 15-6-143, under class ten, are assessed
10 at 100% of the combined appraised value of the standing
11 timber and grazing productivity of the land when valued as
12 timberland.

13 (e) Beginning January 1, 1994, properties in 15-6-143,
14 under class ten, are assessed at 100% of the forest
15 productivity value of the land when valued as forest land.

16 (7) Land and the improvements thereon on the land are
17 separately assessed when any of the following conditions
18 occur:

19 (a) ownership of the improvements is different from
20 ownership of the land;

21 (b) the taxpayer makes a written request; or

22 (c) the land is outside an incorporated city or town.
23 (Subsection (6)(d) terminates January 1, 1994--sec. 19, Ch.
24 783, L. 1991.)"

25 **Section 5.** Section 15-23-103, MCA, is amended to read:

"15-23-103. Due date of reports and returns -- extensions. (1) Except as provided in subsection (2) and 15-23-602, each report or return described in 15-23-301, 15-23-402, 15-23-502, or 15-23-701, [section 1] shall must be delivered to the department on or before March 31 each year.

(2) Each report or return for a natural gas or oil pipeline described in 15-23-301 must be delivered to the department on or before April 15 each year.

(3) Each report described in 15-23-201, 15-23-212, 15-23-515, or 15-23-516 must be delivered to the department before April 15 each year.

(4) The department may for good cause extend the time for filing a return or report for not more than 30 days."

Section 6. Section 15-23-106, MCA, is amended to read:

"15-23-106. Transmission to the counties. (1) On or before July 1, the department shall transmit to its agent in each county a statement listing:

(a) the assessed value of railroad property, as determined under 15-23-202, apportioned to the county, including the length or other description of such the property;

(b) the assessed value of utility property, as determined under 15-23-303, apportioned to the county, including the length or other description of such the

1 property;

2 (c) the assessed value of property of airline
3 companies, as determined under 15-23-403, apportioned to the
4 county; 90% of the value of the property of airline
5 companies apportioned to any county by reason of a state
6 airport being located in the county shall must be stated
7 separately from the remaining assessed value of the property
8 of airline companies apportioned to the county;

9 (d) the assessed value of the net proceeds and
10 royalties from mines and oil and gas wells in the county, as
11 determined under 15-23-503, 15-23-505, 15-23-515, 15-23-516,
12 [section 1], 15-23-603, and 15-23-605; and

13 (e) the assessed value of the gross proceeds from coal
14 mines, as described in 15-23-701.

15 (2) The agent of the department shall enter the
16 assessed values so transmitted in the assessment book in a
17 manner prescribed by the department."

18 **Section 7.** Section 15-23-115, MCA, is amended to read:

19 "15-23-115. Interest. If the department determines that
20 a taxpayer has incorrectly reported a value under 15-23-502,
21 15-23-515, 15-23-516, [section 1], 15-23-602, 15-23-701, or
22 15-23-802, the department shall inform its agents at the
23 county level of such the determination, and if any
24 additional tax is due, there must be added thereto to the
25 tax until paid in full interest at the rate of 1% a month or

1 fraction thereof of a month from the date the original tax
 2 was due and payable. ~~in--no--instance--will--a~~ A taxpayer
 3 subject to imposition of interest pursuant to this section
 4 ~~be--also~~ is not subject to the penalty and interest
 5 provisions contained in 15-16-102."

6 **Section 8.** Section 15-23-502, MCA, is amended to read:

7 "15-23-502. (Temporary) Net proceeds tax -- statement
 8 of yield. Every person engaged in mining, extracting, or
 9 producing from any quartz vein or lode, placer claim, dump
 10 or tailings, or other place or source whatever precious
 11 stones or gems, vermiculite, bentonite, or other valuable
 12 mineral, except coal, travertine, building stone, and
 13 metals, must on or before March 31 each year make out a
 14 statement of the gross yield and value of the above-named
 15 metals or minerals from each mine owned or worked by such
 16 the person during the year preceding January 1 of the year
 17 in which such the statement is made. Such The statement
 18 ~~shall~~ must be in the form prescribed by the department of
 19 revenue and must be verified by the oath of the person
 20 completing the statement or the manager, superintendent,
 21 agent, president, or vice-president, if a corporation,
 22 association, or partnership, and must be delivered to the
 23 department on or before March 31. Except as provided in
 24 15-23-515, and 15-23-516, and [section 1], the statement
 25 ~~shall~~ must show the following:

- 1 (1) the name and address of the owner or lessee or
 2 operator of the mine, together with the names and addresses
 3 of any and all persons owning or claiming any royalty
 4 interest in the mineral product of such the mine or the
 5 proceeds derived from the sale thereof of products, and the
 6 amount or amounts paid or yielded as royalty to each of such
 7 the persons during the period covered by the statement;
- 8 (2) the description and location of the mine;
- 9 (3) the number of tons of ore or other mineral products
 10 or deposits extracted, produced, and treated or sold from
 11 the mine during the period covered by the statement;
- 12 (4) the amount and character of such the ores, mineral
 13 products, or deposits and the yield of such the ores,
 14 mineral products, or deposits from such the mine in
 15 constituents of commercial value; that is, commercially
 16 valuable constituents of the ores, mineral products, or
 17 deposits, measured by standard units of measurement, yielded
 18 to such the person so engaged in mining and to each royalty
 19 holder, if any, during the period covered by the statement;
- 20 (5) the gross yield or value in dollars and cents;
- 21 (6) cost of extracting from the mine;
- 22 (7) cost of transporting to place of reduction or sale;
- 23 (8) cost of reduction or sale;
- 24 (9) cost of marketing the product and conversion of
 25 same the product into money;

(10) cost of construction, repairs, and betterments of mines and cost of repairs and replacements of reduction works;

(11) the assessed valuation of reduction works for the calendar year for which such the return is made;

(12) cost of fire insurance, workers' compensation insurance, boiler and machinery insurance, and public liability insurance paid for the mine, reduction works, or beneficiation process;

(13) cost of welfare and retirement fund payments provided for in wage contracts;

(14) cost of testing extracted minerals for the purpose of satisfying federal or state health and safety laws or regulations, the cost of plant security in Montana, the cost of assaying and sampling the extracted minerals, and the costs incurred in Montana for engineering and geological services for existing mining operations but not including any such services beyond the stage of reduction and beneficiation of the minerals; and

(15) cost of mine reclamation. (Terminates December 31, 1993--sec. 4, Ch. 700, L. 1991.)

15-23-502. (Effective January 1, 1994) Net proceeds tax -- statement of yield. Every person engaged in mining, extracting, or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or source

whatever precious stones or gems, vermiculite, bentonite, or other valuable mineral, except coal and metals, must on or before March 31 each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by such the person during the year preceding January 1 of the year in which such the statement is made. Such The statement shall must be in the form prescribed by the department of revenue and must be verified by the oath of the person completing the statement or the manager, superintendent, agent, president, or vice-president, if a corporation, association, or partnership, and must be delivered to the department on or before March 31. Except as provided in 15-23-515, and 15-23-516, and [section 1], the statement shall must show the following:

(1) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons owning or claiming any royalty interest in the mineral product of such the mine or the proceeds derived from the sale thereof of products, and the amount or amounts paid or yielded as royalty to each of such the persons during the period covered by the statement;

(2) the description and location of the mine;

(3) the number of tons of ore or other mineral products or deposits extracted, produced, and treated or sold from

1 the mine during the period covered by the statement;

2 (4) the amount and character of such the ores, mineral
3 products, or deposits and the yield of such the ores,
4 mineral products, or deposits from such the mine in
5 constituents of commercial value; that is, commercially
6 valuable constituents of the ores, mineral products, or
7 deposits, measured by standard units of measurement, yielded
8 to such the person so engaged in mining and to each royalty
9 holder, if any, during the period covered by the statement;

10 (5) the gross yield or value in dollars and cents;

11 (6) cost of extracting from the mine;

12 (7) cost of transporting to place of reduction or sale;

13 (8) cost of reduction or sale;

14 (9) cost of marketing the product and conversion of
15 same the product into money;

16 (10) cost of construction, repairs, and betterments of
17 mines and cost of repairs and replacements of reduction
18 works;

19 (11) the assessed valuation of reduction works for the
20 calendar year for which such the return is made;

21 (12) cost of fire insurance, workers' compensation
22 insurance, boiler and machinery insurance, and public
23 liability insurance paid for the mine, reduction works, or
24 beneficiation process;

25 (13) cost of welfare and retirement fund payments

1 provided for in wage contracts;

2 (14) cost of testing extracted minerals for the purpose
3 of satisfying federal or state health and safety laws or
4 regulations, the cost of plant security in Montana, the cost
5 of assaying and sampling the extracted minerals, and the
6 costs incurred in Montana for engineering and geological
7 services for existing mining operations but not including
8 any such services beyond the stage of reduction and
9 beneficiation of the minerals; and

10 (15) cost of mine reclamation."

11 **Section 9.** Section 15-23-503, MCA, is amended to read:

12 "15-23-503. Net proceeds -- how computed. (1) The
13 department of revenue shall calculate from the returns the
14 gross product yielded from a mine and its gross value for
15 the year covered by the statement and shall calculate and
16 compute the net proceeds of the mine yielded to the person
17 engaged in mining. Except as provided in 15-23-515, and
18 15-23-516, and [section 1], net proceeds shall must be
19 determined by subtracting from the value of the gross
20 product of the mine the following:

21 (a) all royalty paid or apportioned in cash or in kind
22 by the person engaged in mining;

23 (b) all money expended for necessary labor, machinery,
24 and supplies needed and used in the mining operations and
25 developments;

(c) all money expended for improvements, repairs, and betterments necessary in and about the working of the mine, except as provided in this section;

(d) all money expended for costs of repairs and replacements of the milling and reduction works used in connection with the mine;

(e) depreciation in the sum of 6% of the assessed valuation of the milling and reduction works for the calendar year for which the return is made;

(f) all money actually expended for transporting the ores and mineral products or deposits from the mines to the mill or reduction works or to the place of sale and for extracting the metals and minerals and for marketing the product and the conversion of the product into money;

(g) all money expended for insurance and welfare and retirement costs reported in the statement required in 15-23-502;

(h) all money expended for necessary labor, equipment, and supplies for testing minerals extracted to satisfy federal or state health and safety laws or regulations, for plant security in Montana, for assaying and sampling the extracted minerals, for the cost of reclamation at the site of the mine, and for engineering and geological services conducted in Montana for existing mining operations but not including services beyond the stage of reduction and

beneficiation of the minerals.

(2) In computing the deductions allowable for repairs, improvements, and betterments to the mine, the department shall allow 10% of the cost each year for a period of 10 years.

(3) Money invested in mines or improvements may not be allowed as a deduction unless all machinery, equipment, and buildings represented by the money are returned to the county in which the mine is located for assessment purposes at the level of assessment of all other property in the county.

(4) Money invested in the mines and improvements during any year except the year for which such the statement is made and except as provided in this section may not be included in the expenditures, and the expenditures may not include the salary or any portion of the salary of any person or officer not actually engaged in the working of the mine or superintending the management of the mine."

Section 10. Section 15-23-521, MCA, is amended to read:

"15-23-521. Examination of records by department. The department of revenue may at any time examine the records of any person specified in this part as the records may pertain to the yield of ore or mineral products or deposit in order to verify the statements made by the person. If from the examination or from other information, the department finds

1 any statement or any material part of a statement willfully
2 false or fraudulent, the department must assess in the same
3 manner as provided for in 15-23-503, 15-23-515, or
4 15-23-516, or [section 1]."

5 **Section 11.** Section 15-38-103, MCA, is amended to read:

6 "15-38-103. Definitions. As used in this chapter, the
7 following definitions apply:

8 (1) "Department" means department of revenue.

9 (2) "Gross value of product" means, except as provided
10 in 15-38-125 through 15-38-127 and [section 2], the market
11 value of any merchantable mineral extracted or produced
12 during the taxable year.

13 (3) "Mineral" means any precious stones or gems, gold,
14 silver, copper, coal, lead, petroleum, natural gas, oil,
15 uranium, or other nonrenewable merchantable products
16 extracted from the surface or subsurface of the state of
17 Montana.

18 (4) "Total environment" means air, water, soil, flora,
19 and fauna and the social, economic, and cultural conditions
20 that influence communities and individual citizens."

21 **Section 12.** Section 15-38-104, MCA, is amended to read:

22 "15-38-104. Tax on mineral production. (1) Except as
23 provided in subsections (2), and (3), and (4), the annual
24 tax to be paid by a person engaged in or carrying on the
25 business of mining, extracting, or producing a mineral is

1 \$25, plus an additional amount computed on the gross value
2 of product that was derived from the business work or
3 operation within this state during the calendar year
4 immediately preceding at the rate of 1/2 of 1% of the amount
5 of gross value of product at the time of extraction from the
6 ground, if in excess of \$5,000. Unless otherwise provided in
7 a contract or lease, the pro rata share of any royalty owner
8 or owners may be deducted from any settlements under the
9 lease or leases or division of proceeds orders or other
10 contracts.

11 (2) The annual tax to be paid by a person engaged in or
12 carrying on the business of mining, extracting, or
13 producing:

14 (a) talc is \$25 plus an additional amount computed on
15 the gross value of product for talc derived from the
16 business work or operation within this state during the
17 calendar year immediately preceding at the rate of 4%; and

18 (b) coal is \$25 plus an additional amount computed on
19 the gross value of product for coal produced in Montana
20 during the calendar year immediately preceding at the rate
21 of 0.4%.

22 (3) The annual tax to be paid by a person engaged in or
23 carrying on the business of mining, extracting, or producing
24 vermiculite is \$25 plus an additional amount computed on the
25 gross value of product for vermiculite derived from the

business work or operation within this state during the calendar year immediately preceding at the rate of 2%.

(4) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing limestone for the production of quicklime is \$25 plus an additional amount computed on the gross value of product for limestone derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 10%."

NEW SECTION. Section 13. Codification instruction. (1)

[Section 1] is intended to be codified as an integral part of Title 15, chapter 23, part 5, and the provisions of Title 15, chapter 23, part 5, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 38, part 1, and the provisions of Title 15, chapter 38, part 1, apply to [section 2].

NEW SECTION. Section 14. Effective date -- retroactive

applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to production years beginning after December 31, 1991.

in compliance with a written request, there is hereby submitted a Fiscal Note for HB0382, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing the value of limestone mined for the production of quicklime for net proceeds property tax purposes and for resource indemnity trust tax purposes; establishing a specific resource indemnity trust tax rate for limestone; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. There is one quicklime producer in Montana which would be affected by the proposed legislation (MDOR).
2. Under current law, the producer's 1991 limestone net proceeds are \$3,069,000 (MDOR).
3. The producer extracted 507,329 tons of limestone during production year 1991 for net proceeds purposes (MDOR).
4. Net proceeds production in calendar year 1991 is taxable in tax year 1992 and payable in fiscal year 1993 (MDOR).
5. The tax year 1992 total mill levy for the district in which the limestone is mined is 216.834 mills (MDOR).
6. The State levies 95 mills for the school foundation program and 6 mills for the university system in tax year 1993 and 1994 (MDOR).
7. The proposed law Resource Indemnity Trust Tax rate and gross value determination are revenue neutral in regards to current law (MDOR).

FISCAL IMPACT:

Expenditures:

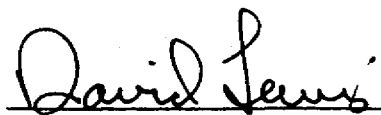
There is no impact to Department of Revenue expenditures under the proposed legislation.

Revenues:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Net Proceeds Tax						
Foundation Program	292,000	16,000	(276,000)	292,000	16,000	(276,000)
University Levy	18,000	1,000	(17,000)	18,000	1,000	(17,000)
Total	310,000	17,000	(293,000)	310,000	17,000	(293,000)

In addition to the FY94/FY95 impacts, there is a FY93 revenue impact of equal magnitude to the foundation program and university system impacts listed above. There is no significant revenue impact to the Resource Indemnity Trust Tax.

EFFECT ON LOCAL REVENUES: (over)

 2.1.93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/2/93
MIKE FOSTER, PRIMARY SPONSOR DATE

Fiscal Note for HB0382, as introduced

HB 382

EFFECT ON LOCAL REVENUES:

<u>Net Proceeds Tax</u>	<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
County Government	209,000	12,000	(197,000)
Local Schools	107,000	6,000	(101,000)
Miscellaneous Districts	<u>40,000</u>	<u>2,000</u>	<u>(38,000)</u>
Total	356,000	20,000	(336,000)

If local government mill levies are similar in tax years 1993 and 1994 to their values in tax year 1992, then net proceeds revenue impacts in each year of the FY94/F95 biennium will be similar to the FY93 impact.

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0360	BACHINI, BOB	CONST. AMEND TO CAP COAL SEVERANCE TAX TRUST FUND AT \$500 MILLION FOR 10 YRS	1/27	2/03	TABLED ON 02/10	VOTE: 19-1	
HB0362	BARDANOUE, FRANCIS	POP TAX TO FUND STATE PARKS	1/27	2/19	TABLED ON 03/15	VOTE: 20-0	
HB0363	RICE, JIM	EXTEND LOCAL OPTION VEHICLE TAX FOR TWO MORE YEARS	1/27	2/03	DO PASS	2/5 VOTE: 20-0	2/09
HB0378	MCCAFFREE, ED	ESTABLISH OFFICIAL GUIDE TO BE USED TO DETERMINE VALUE FOR CERTAIN EQUIPMENT	1/28	2/04	TABLED ON 02/12	VOTE: 15-5	
HB0382	FOSTER, MIKE	ESTABLISH VALUE OF LIMESTONE FOR NET PROCEEDS TAXES AND RITT	1/28	2/04	DO PASS	2/9 VOTE: 19-1	2/10
HB0388	GILBERT, BOB	WATER QUALITY FEES	1/28	2/04	3/18 TABLED 11-9	PASS AS AMENDED 3/19 VOTE: 18-2	3/20
HB0397	MCCULLOCH, SCOTT	REVISE FEES FOR DRIVING RECORDS AND ID CARDS -- APPROP. MONEY TO JUSTICE	1/30	2/03	PASS AS AMENDED	2/9 VOTE: 15-2	2/10
HB0400	WANZENRIED, DAVID	FEES FOR RADIATION SERVICES ESTABLISHED BY RULE, SPECIAL REVENUE ACCOUNT	1/30	2/09	FAILED	3/12 VOTE: 10-10	APPROPRIATIONS
HB0402	STRIZICH, BILL	REVISE TIME FOR CANCELING PERSONAL PROPERTY TAX	1/30	2/05	DO PASS	2/5 VOTE: 20-0	2/06
HB0413	QUILICI, JOE	CLARIFICATION OF PSC AND CONSUMER COUNSEL TAX	1/30	2/09	PASS AS AMENDED	2/10 VOTE: 19-0	2/11
HB0418	BROWN, DAVE	ALLOW PAYMENTS OF ANY AMOUNT ON DELINQUENT PROPERTY TAXES	2/01	2/10	TABLED ON 02/10	VOTE: 20-0	
HB0421	STRIZICH, BILL	ALLOW COUNTY PUBLIC SAFETY PROPERTY TAX LEVY	2/01	2/11	PASS AS AMENDED	2/18 VOTE: 18-1	2/23

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN BOB GILBERT, on February 4, 1993, at 8:15 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Claudia Johnson, Transcriber

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Testimony of John Fitzpatrick was recorded and transcribed verbatim.

Committee Business Summary:

Hearing: HB 330, HB 382, HB 378 and HB 388
Executive Action: None

HEARING ON HB 330Opening Statement by Sponsor:

REP. JOANN "JODY" BIRD, House District 52, Superior, said HB 330 was introduced at the request of the Department of Revenue (DOR) and is a housekeeping bill. It clarifies the statute of limitations for income tax assessments and refund claims. She said Bob Turner of the Department of Revenue Income Tax Division would further explain the bill.

Proponents' Testimony:

Robert Turner, Exam Bureau Chief, Income and Miscellaneous Tax Division, Department of Revenue (DOR), said there are two statutes that address filing of amended returns, one five years from the date of filing and one five years from the date of the return. He distributed a handout which illustrated the difference between the two. EXHIBIT 1 He said the taxpayer would have almost a two-year extended statute of limitations because he/she filed delinquent. This bill clarifies the statute of limitations and allows the person who files a delinquent return to file an amended return five years from the due date of the return, not five years from the date that person filed the return. Current law essentially lets the taxpayer set the statute of limitations.

Opponents' Testimony: There were no opponents.

Questions From Committee Members and Responses:

REP. FOSTER asked if the bill would match up the timelines from a timely filing so if there is a late filed return the timeline would remain April 15, 1993.

Mr. Turner replied that was correct.

Closing Statement by Sponsor:

REP. BIRD closed on HB 330.

HEARING ON HB 382Opening Statement by Sponsor:

REP. MIKE FOSTER, House District 32, Townsend, said the bill was introduced to solve a problem for a good corporate citizen who has been providing a windfall for Broadwater County and the state for approximately 10 years. He said Continental Lime Company, which is located just west of Townsend, has proven to be a very

good citizen and employs about 55 people with a gross annual salary of \$2 million. **REP. FOSTER** said **Dennis Burr** would explain the technical aspects of the bill.

Proponents' Testimony:

Dennis Burr, representing the Montana Taxpayers Association, said the bill is similar to one passed four years ago concerning talc, and one concerning vermiculite passed two years ago. He said the net proceeds tax is difficult both for the Department of Revenue (DOR) to administer and for companies to comply with. Mining has changed considerably but the net proceeds law has not kept pace. **Mr. Burr** said Continental Lime had called him because they were having problems maintaining their profitability and asked him to look at the net proceeds tax to see if it was being calculated properly. Limerock has a very low value unless the plant is built practicably on top of the deposit. He said the net proceeds law requires the starting value for limestone to be what it would sell for as it is brought out of the ground. Because of the way Continental Lime was filing, their value was quite high. From the gross value per ton they are allowed certain deductions which relate to the cost of mining. **Mr. Burr** submitted a list of the lime producers in Montana. The last column shows the value actually going on the tax rolls for each of those producers. The mill levy was applied to the \$6.05. **EXHIBIT 2** **Mr. Burr** referred to page 2, line 18 of the bill and said it sets the value for the application of the mill levy at 34 cents per ton. He said the companies also paid Resource Indemnity Trust Taxes (RITT). As a result, they raised the rate because of the reduction in value to 10% on limestone to get the same amount of money into the RITT. The fiscal note indicates the bill is revenue neutral re the RITT. There are some fairly large reductions in property taxes as a result of this bill, so there is a revenue impact. **Mr. Burr** believed Continental Lime had been improperly filing their net proceeds returns. He also distributed a copy of rules and regulations from DOR which list three methods for calculating the gross value. **EXHIBIT 3** Continental Lime is going to adjust their method of filing to correspond with other lime producers, thereby lowering their tax, whether or not the bill passes. A value of \$3.50 per ton would be more in line with what Continental Lime should have been paying over the past few years. This bill applies to limestone used for the production of quicklime, not that used in cement.

Bill Dodge, Vice President of Continental Lime, Townsend, gave a brief background of Continental Lime which has operated in the state since the early 1980s. He said they got into the present situation because of their belief that it is in their best interests to be a good corporate citizen and avoid litigation. He said no one in the United States has paid this amount for the production of quicklime. The company has undergone a review in the last 12 months which involved looking at all the costs associated with running the plant and they determined this is one of the plant's highest costs. He said they felt they were

proposing legislation that would give the state a significantly higher revenue stream than under the current regulation. It isn't in the best interests of the industry or the state to operate under regulations that attract audits, litigation and conflict in the net proceeds tax.

Brent Palmer, employee of Continental Lime, Townsend, said competition in surrounding states dictated that they look at their operating costs in order to cut expenses wherever possible. In 1992, 9% of the operating budget was directly attributable to the \$3.38 per ton tax. He reviewed the material in **EXHIBIT 4**.

Jim Hohn, Broadwater County Commissioner, Townsend, submitted his written testimony. **EXHIBIT 5**

John Fitzpatrick, Director of Community and Governmental Affairs for Pegasus Gold Corporation, said they are a major customer of Continental Lime and are interested in any legislation that will enable them stay in business. Should Continental Lime face a situation where they may have to go out of business because of lack of profitability, Pegasus Gold would have to purchase lime out of state at a much higher cost. He also endorsed the concept of changing the tax rate from that based on the mine-mouth value of the rock. The hardrock industry faced similar problems until SB 410 was passed in 1989.

Gary Langley, Executive Director, Montana Mining Association, agreed with the previous testimony. He said this Committee supported similar legislation dealing with talc and vermiculite and should pass this bill.

Russ Ritter, Montana Rail Link, expressed support for the bill and said he hoped the legislation would receive a do pass recommendation.

Larry Richtmeyer, Chairman, Unified School District, Broadwater County, Townsend, emphasized he was appearing as an individual at this point because the Board of Trustees had not adopted this stance in resolution form. He was confident it would be adopted at their next meeting. He said they wanted the school to grow with the business community and said a letter of support would be forthcoming from the Board of Trustees.

Marcel Turcotte, Broadwater County Development Corporation, Townsend (BCDC), said they are a small non-profit organization that assists small business and industries. He said in 1980 when Continental Lime was ready to locate in the county BCDC and the County Commissioners assisted in the acquisition of industrial bonds. They have been a good neighbor, have provided high quality employment, and are one of the county's largest employers. The tax is inequitable and Continental Lime operations should not be jeopardized as a result.

Bill Duede, representing the workforce at Continental Lime, Townsend, said they support HB 382 and requested a do pass recommendation.

Opponents' Testimony: There were no opponents.

CHAIRMAN GILBERT RELINQUISHED THE CHAIR TO MINORITY VICE CHAIRMAN HARRINGTON.

Questions From Committee Members and Responses:

REP. McCAFFREE said the fiscal note indicates the county would take lose \$197,000 in actual tax dollars and asked how that applied to tax valuation.

Mr. Hohn said the county taxable value is slightly over \$50 million. This would change them to a Class 4 county from a Class 5 county.

REP. FELAND asked if the 34 cent tax would be on the finished product. Mr. Dodge replied it would be a flat tax with no deductions. The 34 cents would be indexed to inflation not to the price of lime. The price of lime has been rising more slowly than inflation. The tax is on the raw material, not the finished product.

REP. REAM asked DOR if Continental Lime could have filed under a different system.

Don Hoffman, DOR, said Mr. Burr correctly characterized the regulations for the valuation of limestone for Continental Lime and the other cement producers. EXHIBIT 3.

Closing Statement by Sponsor:

REP. FOSTER said this bill was a chance for the Legislature to make a positive impact on the state's economy and jobs.

HEARING ON HB 378

Opening Statement by Sponsor:

REP. ED McCAFFREE, House District 27, Forsyth, said the bill requires the Department of Revenue (DOR) to use the Green Guide as the official guide for valuing heavy equipment, i.e., construction and mining equipment. In 1991, the DOR issued a directive to County Assessors advising them to use the acquired cost/acquired year method as first choice, and the Green Guide as second choice.

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

2/4/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. MCCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

EXHIBIT 2
DATE 2/4/38
HB 383

COMPANY	TONS	GROSS VALUE	GROSS VALUE PER TON	DEDUCTIONS	NET PROCEEDS	NET PROCEEDS PER TON
↓ ↓ ↓ 1992 TAX YEAR ↓ ↓ ↓ 1992 TAX YEAR ↓ ↓ ↓						
CONTINENTAL LIME	507,329	\$5,151,953	\$10.15	\$2,082,899	\$3,069,054	\$6.05
HOLNAM INC.	445,071	1,295,157	2.91	1,028,677	266,480	.61
ASARCO	28,610	267,181	9.33	242,892	24,289	.84
ASH GROVE	421,183	1,474,141	3.50	1,599,942	0	0
↓ ↓ ↓ 1991 TAX YEAR ↓ ↓ ↓ 1991 TAX YEAR ↓ ↓ ↓						
CONTINENTAL LIME	302,851	\$3,091,262	\$10.21	\$1,317,514	\$1,773,748	\$5.86
HOLNAM INC.	487,576	1,331,082	2.73	1,427,803	0	0
ASARCO	35,212	296,932	8.43	269,938	26,994	.77
ASH GROVE	390,956	1,251,059	3.20	1,191,896	59,163	.15
↓ ↓ ↓ 1990 TAX YEAR ↓ ↓ ↓ 1990 TAX YEAR ↓ ↓ ↓						
CONTINENTAL LIME	300,563	\$3,035,494	\$10.10	\$1,292,532	\$1,742,962	\$5.80
MONTANA LESTONE CO.	204,368	854,429	4.18	764,136	90,293	.44
IDEAL BASIC IND.	508,950	865,215	1.70	1,515,512	0	0
ASARCO	30,633	258,217	8.42	234,743	23,474	.76
ASH GROVE	412,805	1,193,006	2.88	1,179,708	13,298	.03
↓ ↓ ↓ 1989 TAX YEAR ↓ ↓ ↓ 1989 TAX YEAR ↓ ↓ ↓						
CONTINENTAL LIME	317,439	\$2,764,522	\$8.70	\$1,263,354	\$1,501,168	\$4.73
IDEAL BASIC IND.	507,109	1,195,410	2.36	637,638	557,772	1.10
ASARCO	32,793	267,310	8.15	243,009	24,301	.74
ASHGROVE	404,868	1,125,533	2.77	1,381,355	0	0
↓ ↓ ↓ 1988 TAX YEAR ↓ ↓ ↓ 1988 TAX YEAR ↓ ↓ ↓						
CONTINENTAL LIME	130,213	\$5,596,758	\$42.98	\$4,491,323	\$1,105,435	\$8.49
IDEAL BASIC IND.	393,882	429,371	1.09	616,344	0	0
ASARCO	36,657	298,965	8.15	217,786	27,179	.74
ASHGROVE	320,842	882,315	2.75	1,295,045	0	0

NATURAL RESOURCE TAXES

42.25.1105

IMP, Secs. 15-23-102 and 15-23-503 MCA; NEW, Eff. 4/5/74; AMD and TRANS, from ARM 42.22.1103, 1986 MAR p. 2072, Eff. 12/27/86.)

42.25.1104 MINING VERSUS NON-MINING PROCESSES (1) The gross value of minerals subject to tax will be determined at the point where mining processes end and manufacturing or non-mining processes begin. In general, mining includes overburden removal, blasting, loading, transportation between mining processes, sorting, reduction and drying. Processes which will be considered non-mining are fine grinding, burning or calcining, blending with other materials, and treatment effecting a chemical change and packaging.

(a) The points at which mining processes end for specific minerals are listed below.

<u>Mineral</u>	<u>Valuation Point</u>
Bentonite	after crushing and drying
Gypsum	after crushing
Limestone	after crushing
Talc	after crushing and sorting
Vermiculite	after screening

(b) No deductions will be allowed for processing costs incurred beyond the valuation point. "After crushing" refers to after all crushing but before grinding. (History: Sec. 15-23-108 MCA; IMP, Secs. 15-23-502 and 15-23-503 MCA; NEW, 1988 MAR p. 1983, Eff. 9/9/88.)

42.25.1105 - COMPUTATION OF GROSS VALUE (1) Gross value for purposes of the mines net proceeds will be determined at the point where mining processes end and manufacturing or non-mining processes begin as discussed in ARM 42.25.1104.

(2) Gross value at the point of valuation will be determined using one of the following methods which are listed in the order they are to be considered.

(a) The producer's actual sales prices for mineral products sold at the point of valuation will be considered the best evidence of value provided the sales are arm's-length and represent approximately 30% of total mineral production. Sales of less than 30% of total production may be acceptable indicators of value if the sales price per unit is corroborated with other representative market data for minerals of like kind

and grade. Documentation for this method must be provided by the producer to the department on request.

(b) If the producer does not have the sales information discussed in (a), a market survey of other producers' sales of like kind and grade mineral products may be done. If this method is used, the producer must obtain market data for 3 or more other producers. This data must represent the results of competitive transactions in markets with a substantial number of unrelated buyers and sellers. The producer must document that all values used are for minerals of comparable quality sold in quantities approximating the producers level of production. It may also be necessary to consider the geographic area served by the markets used for comparison. All information obtained by the producer to support this method must be provided to the department on request.

(c) If the information required by (a) and (b) is not available, the proportionate profits method may be used to compute a value in the absence of adequate market data. The general formula for this computation is stated below.

$$\text{Taxable value/unit} = \frac{\text{Direct costs through valuation point}}{\text{Total direct costs}} \times \text{Sales price/unit}$$

(i) Direct costs through the valuation point will include overburden removal, drilling, blasting, loading, hauling, crushing, sorting, drying, mine reclamation, production taxes and royalties and any other direct costs incurred through the valuation point.

(ii) Total direct costs will include, in addition to those noted above, all direct costs applied to the mineral products up to the point of production of the first marketable product or group of products which have not been manufactured or fabricated. These costs will typically include grinding, burning or calcining, blending with other materials and treatment effecting a chemical change.

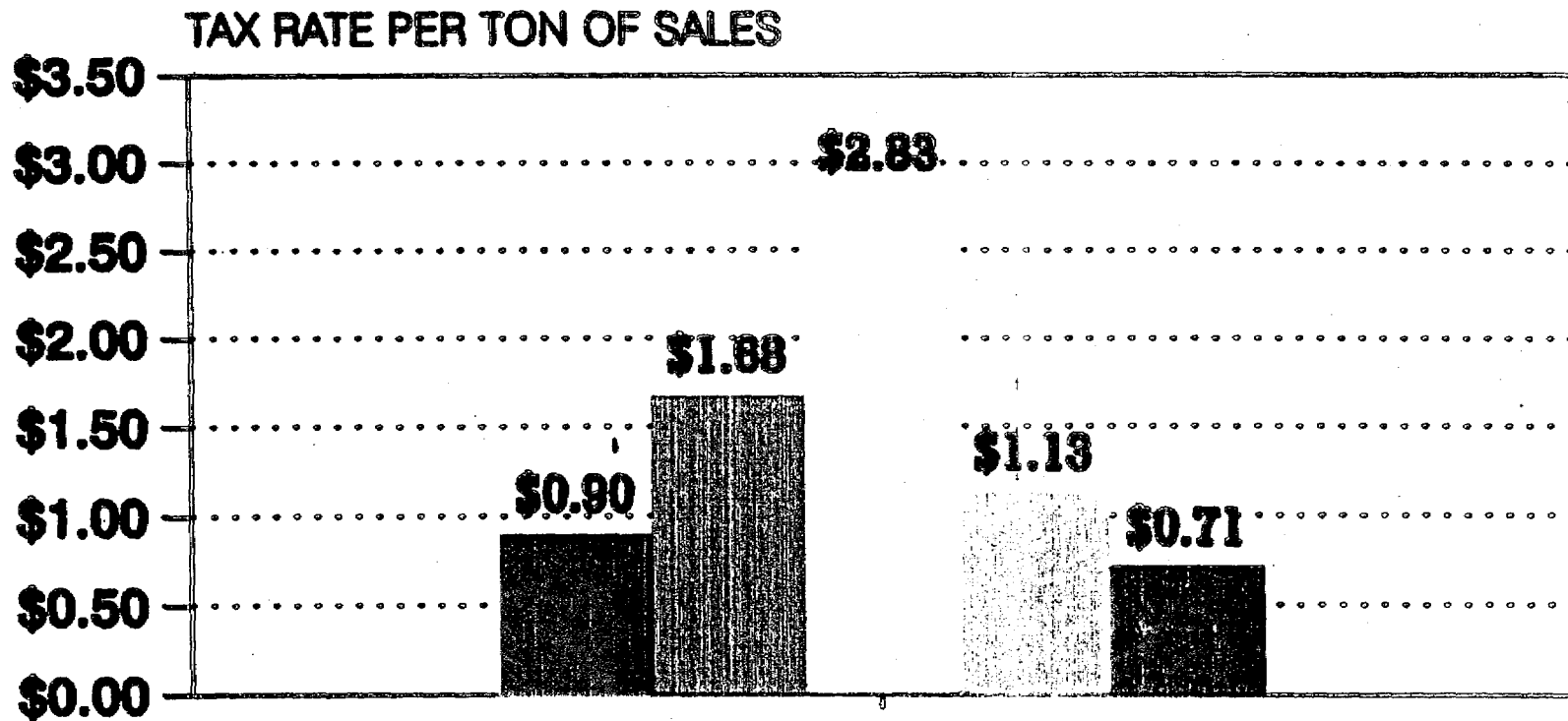
(iii) The sales price per unit will be the weighted average price of the first marketable product or group of substantially similar products sold in significant quantities by the producer.

(iv) Only direct costs may be used in computing the cost ratio for the formula. No costs that benefit the operation as a whole or are not directly related to a specific phase of the mining or processing of the mineral product will be included in the ratio.

(d) The department may use an alternative valuation method if warranted by an unusual situation. (History: Sec. 15-23-108 MCA; IMP, Sec. 5-23-502 and 15-23-503 MCA; NEW, 1988 MAR p. 2507, Eff. 11/24/88.)

CONTINENTAL LIME INC.

PROPERTY TAX COMPARISON BY STATE



PLANT TAX RATE BY STATE

Cricket Mountain, UT
 Pilot Peak, NV
 Indian Creek, MT
 Frannie, WY
 Ten Mile, ID

- 1) UTAH AND NEVADA INCLUDES SALES TAX
- 2) NEVADA RATE OF \$1.88/TON IS HIGH DUE TO LOW VOLUME

EXHIBIT 4
 DATE 2/4/93
 HB 382

CONTINENTAL LIME INC.

INDIAN CREEK PLANT - TOWNSEND, MONTANA

NUMBER OF EMPLOYEES WORKING: 56

GROSS ANNUAL PAYROLL: \$1,943,000

STATE INCOME TAXES PAID: \$ 112,000

STATE PROPERTY TAXES PAID: \$ 913,000

GOODS & SERVICES/LOCAL: \$2,068,000

CONTINENTAL LIME INC.

INDIAN CREEK PLANT - TOWNSEND, MONTANA

NUMBER OF EMPLOYEES WORKING: 56

GROSS ANNUAL PAYROLL: \$1,943,000

STATE INCOME TAXES PAID: \$ 112,000

STATE PROPERTY TAXES PAID: \$ 913,000

GOODS & SERVICES/LOCAL: \$2,068,000

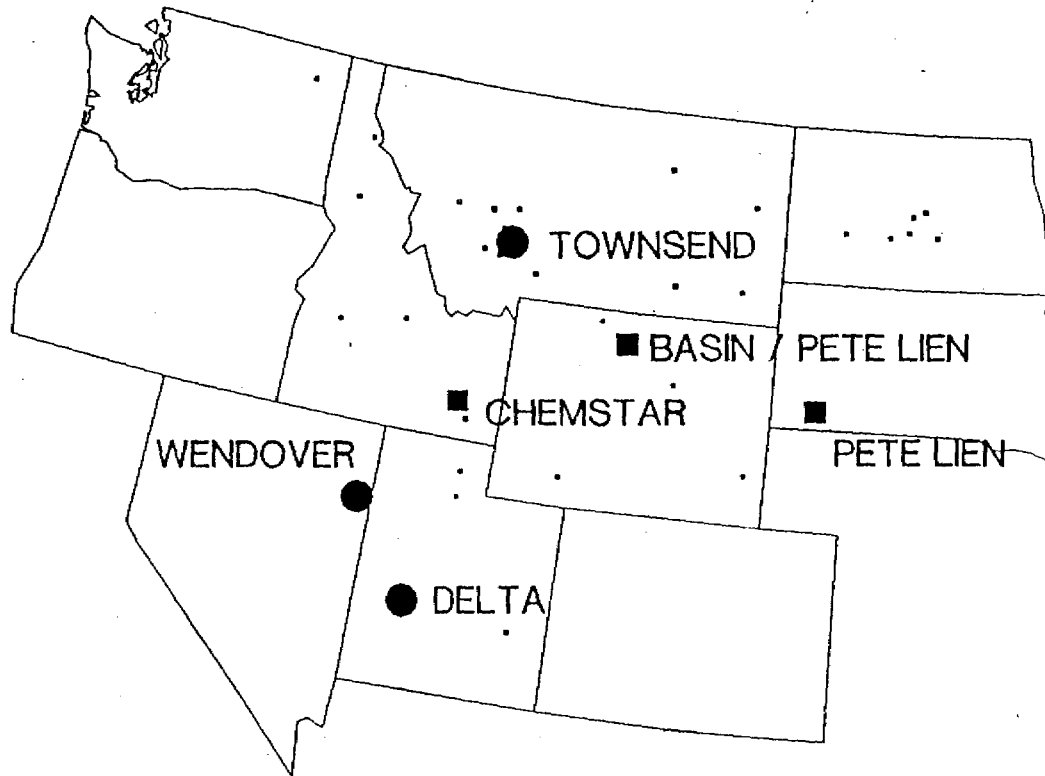
CONTINENTAL LIME INC.
NET PROCEEDS TAX COMPARISONS 1988 - 1992
LIMESTONE PRODUCERS

LIMESTONE

COMPANY	TONS	GROSS VALUE	GROSS VALUE PER TON	DEDUCTIONS	NET PROCEEDS	NET PROCEE PER TON
1992 TAX YEAR						
CONTINENTAL LIME	507,329	\$5,151,953	\$10.15	\$2,082,899	\$3,069,054	\$
HOLNAM INC.	445,071	1,295,157	2.91	1,023,677	266,480	
ASARCO	28,610	267,181	9.33	242,892	24,289	
ASH GROVE	421,183	1,474,141	3.50	1,599,942	0	
1991 TAX YEAR						
CONTINENTAL LIME	302,851	\$3,091,262	\$10.21	\$1,317,514	\$1,773,748	\$5
HOLNAM INC.	487,576	1,331,082	2.73	1,427,803	0	
ASARCO	35,212	296,932	8.43	269,938	26,994	
ASH GROVE	390,956	1,251,059	3.20	1,191,896	\$9,163	
1990 TAX YEAR						
CONTINENTAL LIME	300,563	\$3,035,494	\$10.10	\$1,292,532	\$1,742,962	\$5.
MONTANA LIMESTONE CO.	204,368	854,429	4.18	764,136	90,293	
IDEAL BASIC IND.	508,950	865,215	1.70	1,515,512	0	
ASARCO	30,633	258,217	8.42	234,743	23,474	.7
ASH GROVE	412,805	1,193,006	2.88	1,179,708	13,298	.0
1989 TAX YEAR						
CONTINENTAL LIME	317,439	\$2,764,522	\$8.70	\$1,263,354	\$1,501,168	\$4.7
IDEAL BASIC IND.	507,109	1,195,410	2.36	637,638	557,772	1.10
ASARCO	32,793	267,310	8.15	243,009	24,301	.74
ASHGROVE	404,868	1,125,533	2.77	1,381,355	0	0
1988 TAX YEAR						
CONTINENTAL LIME	130,213	\$5,596,758	\$42.98	\$4,491,323	\$1,105,435	\$8.49
IDEAL BASIC IND.	393,882	429,371	1.09	616,344	0	0
ASARCO	36,657	298,965	8.15	217,786	27,179	.74
ASHGROVE	320,842	882,315	2.75	1,295,045	0	0



CONTINENTAL LIME INC.



CONTINENTAL PLANTS
TOWNSEND, MT.
DELTA, UT.
WENDOVER, NV.

COMPETITOR PLANTS
CHEMSTAR
BASIN
PETE LIEN

- CLI LIME PLANT
- COMPETITORS PLANT
- CUSTOMERS

EXHIBIT 5
DATE 9/4/93
SB 382

BROADWATER COUNTY

Board of County Commissioners

406-266-3443

P. O. Box 489

TOWNSEND, MONTANA 59644



Mr. Chairman, Members of the Committee:

For the record, my name is Jim Hohn, I am a member of the Broadwater County Commission. Today, I rise in support of House Bill 382. This bill, sponsored by Representative Foster, will establish the value of limestone used for the production of quicklime for net proceeds property tax purposes. Continental Lime Incorporated is very valuable to Broadwater County with 56 employees and a gross annual payroll of \$1,943,000. Goods and services which were purchased locally last year totaled \$2,068,000. As you can see, they are very valuable to the financial stability of our county. They have been and we would like to see them continue to be a very reliable tax paying business in our county. This bill would be one way in which we can help a Montana business. Companies must be encouraged to establish and expand in this state rather than to leave. The existing high taxes are discouraging companies from moving here, and forcing companies to leave. Under the present regulations there is no uniformity in the tax. By simplifying the regulation there would be less confusion in determining the tax, and would each county would be able to more accurately forecast their revenue and reduce the fluctuation in the tax base.

For these reasons I urge you to give favorable consideration to House Bill 382.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

HB 330

HB 378

HB 382

HB 388

House Delegation

COMMITTEE

BILL NO.

DATE 2/4/93

SPONSOR(S) BIRD, McLAFFREE, FOSTER, RANNEY

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOS
GARY LANGLEY	MONTANA MINING ASS.	382	378
"	"		388
Marian Olson	Mt. Assessor Assoc.	378	
Cell Sahle	Mt Assessor Assoc	378	
Heanne Burnard	Phillips Co / Mt Assessor Assoc	378	
Sharon Harris	Big Horn Co / Mt Assessor	378	
Don Bauley	Bozeman County	378	
REX MANUEL	CENEX PET. DIV		388
Donna Kennedy	Bozeman County, Bozeman	378	
Richard A. Nishet	City of Helena		388
Bob Turner	DOR	330	
Denis Adams	Self		378
Gordon Morris	MA Co	378	
John Fitzpatrick	Pyrites Gold Co-P	382	388

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

DATE _____ COMMITTEE _____ BILL NO. _____
SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill Dodge	Continental Lime	382	
Brent Palmer	" "	382	
Elton Cheney	" "	382	
Don All	MT. Wood Products		388
John All	may		378
Dennis Burr	MONTANA TAXPAYERS ASSOC	382	378
Ken Williams	MPC/Entech		378
Mike Harrington	MPC		388
Steve Brown	Continental Lime	382	
Jim Mackler	MT. Coal Council		378 388
Jim Jensen	WETC	388	
WARD SHANAHAN	STILLWATER MINING		388
Russ Rite	Wash Corp MR		378 388
Frank Antonovich	Contact Mining		388

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN BOB GILBERT, on February 9, 1993, at
8:00 A.M.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Claudia Johnson, Transcriber

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 183, HB 413, HB 400, HB 505, & HB 268
Executive Action:

HB 268 Do Pass As Amended
HB 397 Do Pass As Amended
HB 382 Do Pass
HB 437 Do Pass
HB 452 No Final Action
SB 183 Be Concurred In

EXECUTIVE ACTION ON HB 382

Motion: REP. FOSTER MOVED HB 382 DO PASS.

Discussion: REP. FOSTER said Continental Lime had suggested the bill because they have been paying taxes on a miscalculated basis. they feel this is a fair rate and in the public interest.

REP. ELLIOTT asked if the taxable valuation of Broadwater county would be affected.

REP. FOSTER said the County Commissioners said the county taxable value would drop.

REP. MCCARTHY said the county would lose approximately \$7000 and would change to a Class 5 county. It does not affect taxable value as it is a severance tax.

Vote: Motion that HB 382 Do Pass carried 19 - 1 with REP. REAM voting no.

EXECUTIVE ACTION ON HB 437

Motion: REP. HARRINGTON MOVED HB 437 DO PASS.

Discussion: REP. HARRINGTON said this is the low-income property tax and is a fairness issue.

CHAIRMAN GILBERT asked if the bill would have a negative impact on people who are now filing Subchapter S. Ms. Rippingale replied it could possibly have a negative effect but DOR would expect it to be very nominal.

Vote: HB 437 DO PASS. Motion carried 19 - 1 with CHAIRMAN GILBERT voting no.

EXECUTIVE ACTION ON HB 452

Motion: REP. HARRINGTON MOVED HB 452 DO PASS.

Discussion: REP. HARRINGTON said it is important that the Legislature have the settlement information so that estimates of fiscal impacts can be anticipated and used in budget adjustments.

REP. ELLIOTT expressed some concern about the dissemination of confidential tax information. REP. HARRINGTON said the Legislature should be informed if there are big tax settlements pending.

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

2/9/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. MCCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 382 (first reading copy -- white) do pass.

Signed: _____

Bob Gilbert

Bob Gilbert, Chair

Committee Vote:
Yes 14, No 1.

3214358C.Bpf

CHAIRMAN--MIKE HALLIGAN
NORMAL SCHEDULE==> SITE: RM 413/415

DAYS: M,T,W,T,F

TIME: 8:00 A.M.

SECRETARY--BONNIE STARK

---BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES-----	COMMITTEE ACTION-----	REREFERRED TO COMM---	DATE OUT---
HB0322	4/01	4/06	4/8/93	CONCUR AS AMENDED		4/08
FELAND, GARY			EXEMPT FIRST 3 BARRELS A DAY OF STRIPPER OIL FROM STATE SEVERANCE TAX			
HB0327	2/09	2/17	3/4/93	CONCUR		3/05
MCCAFFREE, ED			CLARIFY APPLICABILITY OF \$5 MINIMUM PROPERTY TAX			
HB0330	2/16	3/04	4/2/93	CONCUR AS AMENDED		4/03
BIRD, JODY			CLARIFY STATUTE OF LIMITATIONS FOR INDIVIDUAL INCOME TAX			
HB0350	2/22	3/18	4/2/93	CONCUR AS AMENDED		4/05
MASON, GARY			REVISE COAL BOARD GRANT AND LOAN PROGRAM			
HB0382	3/01	3/23	4/2/93	CONCUR		4/03
FOSTER, MIKE			ESTABLISH VALUE OF LIMESTONE FOR NET PROCEEDS TAXES AND RITT			
HB0393	3/12		4/1/93	CONCUR		4/02
WAGNER, DOUGLAS			REPLACING TIMBER STAND IMPROVEMENT FEES WITH A FOREST IMPROVEMENT FEE			
HB0402	2/16	3/16	4/2/93	CONCUR		4/03
STRIZICH, BILL			REVISE TIME FOR CANCELING PERSONAL PROPERTY TAX			
HB0413	2/20	3/17	4/2/93	CONCUR AS AMENDED		4/05
QUILICI, JOE			CLARIFICATION OF PSC AND CONSUMER COUNSEL TAX			
HB0436	3/13	4/01	4/2/93	CONCUR AS AMENDED		4/05
NELSON, THOMAS			CLARIFY DEFINITION FOR POLLUTION CONTROL TAX CREDIT			
HB0437	2/20	3/18	4/13/93 Meeting #]	CONCUR AS AMENDED		4/13
HARRINGTON, DAN			REVISE DEFINITION OF NET INCOME FOR LOW-INCOME PROPERTY TAX RELIEF			
HB0490	2/20	3/16	3/16/93	CONCUR		3/16
ORR, SCOTT			STATE GASOLINE TAX ON ALL GASOLINE IMPORTED INTO STATE			

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By Vice Chair Dorothy Eck, on March 23, 1993, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: Sen. Mike Halligan (D)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 196, HB 382, HB 519, HB 593
Executive Action: SB 427, SB 429, HB 283

HEARING ON HB 382

Opening Statement by Sponsor:

Rep. Mike Foster, House District 32, presented HB 382, which is a bill to establish the value of limestone for Net Proceeds Taxes and RITT. Rep. Foster said this bill comes as the result of a unique situation in Broadwater County. Continental Lime (the company) has a plant near Townsend. The company recently discovered that for the last 10 years or so, they have been vastly over-paying their taxes, thus providing a windfall for the state's economy. The Department of Revenue (DOR) agrees that by using an acceptable alternate method of calculation, the company

could legally submit its next tax filing showing zero tax dollars due. In an effort to show its intent, and continue acting as a good corporate citizen and neighbor in Broadwater County, the company is supporting HB 382 in order to establish the value of limestone at 34 cents per ton for the production of quicklime, for Net Proceeds Property Tax purposes and for Resource Indemnity Trust Tax (RITT) purposes. Continental Lime employs 56 people and has a gross annual salary of nearly \$2 million. Rep. Foster said what HB 382 boils down to is whether or not this Legislature wants some tax dollars from this Company.

Proponents' Testimony:

Rep. Foster submitted a letter from the Superintendent of Townsend Schools, Exhibit No. 1 to these minutes, which expresses support of HB 382 by the Board of Trustees.

Dennis Burr, representing the Montana Taxpayers Association, appeared in support of HB 382. Mr. Burr said limestone is used for two purposes in Montana: cement and quicklime. This plant produces quicklime. Mr. Burr said several months ago, Brent Palmer, an employee of Continental Lime, contacted him with some questions about the company's net proceeds; they were having trouble getting a good bottom line in Montana and they thought net proceeds might be one of their problems. Mr. Burr looked at the company's net proceeds and compared them with the net proceeds of other limestone producers. Exhibit No. 2 to these minutes is a copy of those comparisons. Under the DOR rules, there are three methods of filing a Net Proceeds Return. Exhibit No. 3 to these minutes is a copy of the DOR's rules. The proportionate profits method of taxing is what Continental Lime has used since 1981, and which produces a very high value. The other limestone producers in the state, the cement plants, are using known sales in establishing their tax. Continental Lime had an engineering firm study sales prices from other producers around the country, which resulted in using a value of \$3.50/Ton. However, at that level, their allowable deductions will wipe out the Net Proceeds and there will be no revenue for Broadwater County. HB 382 does the same thing for quicklime as is done for talc and vermiculite, which is to set the value, in this case, at 34-cents a Ton, which will result in some tax, around \$30,000, for Broadwater County. Mr. Burr said the fiscal note indicates a cost cut to the University Levy and Foundation Program, and it has a \$336,000 impact to Broadwater County. The fiscal note is based on using the method of filing they have used in the past, one they will not be using anymore, so if HB 382 passes, there will be tax returns to all of the funds involved. Mr. Burr thinks HB 382 is a good bill for the State and for the local governments; it will stabilize the return when this rock is mined in the state, and it insures there will be returns every year that rock is mined. He said the present system doesn't insure that.

Bill Dodge, Vice President of Continental Lime, spoke in support of HB 382, and said they view this bill as being a fair bill that will give the State value. Mr. Dodge said they were directed by the DOR to use the proportionate profits method in establishing their tax in an effort to avoid litigation other cement plants have been involved in by using the market survey method of taxing. However, in recent years it has become grossly overstated, and the regulation required they pay tax on the mine-mouth value. This calculation doubles and triples the estimated mine-mouth value. Continental Lime accepts the Tax Appeal Board findings that predicting a zero value is not acceptable and that some value has to be used. The value of \$3.10/Ton is in the range of 10% of the value of the stone, which will give the city and the county an assured tax base.

Brent Palmer, an employee of Continental Lime, spoke in favor of HB 382, and presented Exhibit No. 4 to these minutes. Mr. Palmer said they compared what Continental Lime was paying as a Net Proceeds Tax with what other plants were paying, and discovered other plants were paying 17 cents on each Ton of stone. They went back and determined which companies did not pay any Net Proceeds Tax and that increased the rate per Ton to 34 cents, which is the rate they determined to be a fair rate of return. In applying the 34 cents/Ton to last year's Net Proceeds Tax Return, a value was put upon the stone of \$4.79/Ton. Mr. Palmer said he cannot find any publication showing other mines producing anywhere near that value for stone. The Rock Products Magazine puts a value on crushed stone at \$2.82/Ton. Continental Lime feels the \$4.79/Ton price is a very fair rate for the Net Proceeds Tax and they urge support of HB 382.

Jim Hahn, Broadwater County Commissioner, spoke in support of HB 382. Mr. Hahn said that Continental Lime has been a very good taxpayer in the past years, and the Commissioners have a good working relationship with them. Commissioner Hahn asks that HB 382 be passed.

Bill Duede, representing the work force of Continental Lime, spoke in support of HB 382. Mr. Duede said with the economic and environmental changes in the world, a company has to look at any areas in which to cut costs in order to remain competitive in the marketplace. The passage of HB 382 will help Continental Lime achieve this goal. This company plays an important part in Broadwater County communities, employs approximately 60 people year-round, and the business affects other people throughout Montana who rely on this business to survive. Mr. Duede strongly urges passage of HB 382.

Bill Kearns, representing the Broadwater County Development Corporation and the Townsend Area Chamber of Commerce, asked for the Committee's support of HB 382. Continental Lime supports the community and was a good citizen in helping keep the Townsend hospital open. Mr. Kearns said this industry is good for their community and all of Montana by providing employment and taxes.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe asked Dennis Burr how they arrived at the 34-cent figure. Mr. Burr explained that on Page 1, Line 18, of HB 382, it refers to limestone extracted for quicklime purposes; on Page 2, Lines 16 through 24 state it is increased each year by the personal consumption expenditures (PCE). They checked and found that quicklime has been rising slower than the PCE for the last 10 years or so. There is one other place it will affect. Continental Lime's biggest contract was with Basin Electric of Wyoming. They have now built their own plant across the Montana border in Wyoming, and will be moving rock from Carbon County, Montana, to that plant in Wyoming. The Senator asked if the 34 cents is just on the gross. Mr. Burr said 34 cents is what the actual mill levy is applied to.

Senator Towe asked what PCE means. Jeff Martin, Legislative Council Staff, said this means that the gross value of the product will go up as inflation goes up. Mr. Burr said it is the normal breadbasket of consumer purchases that inflation is measured by. Mr. Martin said this formula is used in the provisions for vermiculite and talc, and tends to be a more reliable measure of adjustment for inflation.

Senator Towe asked Mr. Burr what is being done on Page 19, Lines 3 through 9. Mr. Burr said this is the RITT. By lowering the value for net proceeds purposes, the value would normally be lowered for RITT. They didn't want to do that, so the rate needed to be increased from 2.005% to 10%, so they will be paying essentially the same for the RITT under that rate as they were before. This is based on the 34 cent figure.

Senator Gage asked Mr. Burr what the personal property and real property values are of Continental Lime. Mr. Burr said it was around \$25 million.

Senator Van Valkenburg asked Rep. Foster if the reduction in revenue to the Foundation Program and the University 6-mill levy has been taken into account in House Resolution 2. Rep. Foster said he does not believe so, that the Resolution was passed before HB 382 had its hearing. He does not know how it is worked in, but knows that it does appear in the printouts.

Senator Towe asked if HB 382 were to pass, would Continental Lime be contemplating asking for a refund and suing for past taxes paid. Bill Dodge said, "No". The Senator asked if there

could be a commitment to that effect. Mr. Dodge said he believes the company is blocked from doing that by current legislation because they elected to take the proportionate profits method to compute value. It is classed as property tax and, as such, they had an appeal period and did not appeal within that time.

Senator Towe asked if the proportionate profits method must be used to determine the natural resources tax. Mr. Burr replied that the argument would be whether that method yields mine-mouth value.

Senator Eck asked Mick Robinson, Director of the DOR, to respond to this issue. Mr. Robinson said he reviewed the methods of taxing the limestone industries, and noted some problems with calculating. The DOR is using a proportionate profits method and tries to be consistent with that. That particular method takes the end sales price, then calculates back to the mine-mouth value of the product. There are a lot of factors going into the further manufacturing or production of the product until the sales price is arrived at, in order to then arrive at some objective basis for starting the calculation. It is a difficult process and it puts the DOR in a difficult position in trying to calculate the formula. Because there are no sales of limestone within Montana, there isn't a good basis for making a computation of value. From the standpoint of efficiency, Mr. Robinson thinks these are some of the products better approached from a gross proceeds type of tax than a net proceeds tax because of the difficulty in determining value. From an administrative standpoint, in dealing with such a small amount of tax value state-wide, it would be easier and much more cost-effective for the DOR to approach it from a gross proceeds tax rather than a net proceeds tax.

Senator Towe asked about the 34-cent value. Don Hoffman, DOR, explained he looked at the calculations done by Continental Lime. They used the returns filed by other companies in the country that have filed on limestone, and, based on the way those returns were filed, it is an accurate number. Mr. Robinson added that the other companies in the marketplace project what they think the mine-mouth market value is. Continental Lime looks at the other companies' indications of value, including information from sales surveys, and factors all of these items in, in order to arrive at the 34 cents. Mr. Robinson thinks, based on the lack of solid data regarding sale of limestone, the 34 cents is as realistic a value as can be calculated, and doesn't think he can come up with a more objective value to give the community.

Closing by Sponsor:

Rep. Foster said this is not a good year to come in with a bill to reduce revenues. However, by taking this approach to the net proceeds tax for Continental Lime, the State will get a fair amount of tax revenue.

ROLL CALL

SENATE COMMITTEE

TAXATION

DATE 3-23-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair			✓
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

TOWNSEND
SCHOOLS

P.O. Box N
Townsend, MT 59644
(406) 266-3455

HIGH SCHOOL DISTRICT NO. 1

Broadwater High School
(406) 266-3455

ELEMENTARY DISTRICT NO. 7

Cecelia Hazelton Elementary
(406) 266-3942

SENATE TAXATION

EXHIBIT NO. 1

DATE 3-23-93

BILL NO. AB 382

February 10, 1993

Representative Mike Foster
PO Box 126
Townsend, MT 59644

Dear Mike,

I am writing on behalf of the members of the Board of Trustees of Townsend School, Elementary District #7 and High School District #1. At their regular February board meeting held last night, February 9, 1993, the trustees voted unanimously to offer their official support of HB 382 currently being considered.

Although it reduces the tax support level now being paid by Continental Lime, it is in the long term best interests of the district and the county to keep the plant a viable part of our community. The board believes that this bill will contribute greatly to the long term health of the plant. As well, Continental Lime has been a good "neighbor" to our school and the county in a wide variety of ways.

If the district can provide you with any additional information or assistance in this matter, please give me a call.

Cordially yours,

Al Mc Milin

Al Mc Milin
Superintendent

LIMESTONE

COMPANY	TONS	GROSS VALUE	GROSS VALUE PER TON	DEDUCTIONS	NET PROCEEDS	NET PROCEEDS PER TON
↓ ↓ ↓ 1992 TAX YEAR ↓ ↓ ↓ 1992 TAX YEAR ↓ ↓ ↓						
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ASARCO	30,633	258,217	8.42	234,743	23,474	.76
ASH GROVE	412,805	1,193,006	2.88	1,179,708	13,298	.03
↓ ↓ ↓ 1989 TAX YEAR ↓ ↓ ↓ 1989 TAX YEAR ↓ ↓ ↓						
CONTINENTAL LIME	317,439	\$2,764,522	\$8.70	\$1,263,354	\$1,501,168	\$4.73
IDEAL BASIC IND.	507,109	1,195,410	2.36	637,638	557,772	1.10
ASARCO	32,793	267,310	8.15	243,009	24,301	.74
ASHGROVE	404,868	1,125,533	2.77	1,381,355	0	0
↓ ↓ ↓ 1988 TAX YEAR ↓ ↓ ↓ 1988 TAX YEAR ↓ ↓ ↓						
CONTINENTAL LIME	130,213	\$5,596,758	\$42.98	\$4,491,323	\$1,105,435	\$8.49
IDEAL BASIC IND.	393,882	429,371	1.09	616,344	0	0
ASARCO	36,657	298,965	8.15	217,786	27,179	.74
ASHGROVE	320,842	882,315	2.75	1,295,045	0	0

SENATE TAXATION

EXHIBIT NO. 2
DATE 3-23-93

NATURAL RESOURCE TAXES

42.25.1105

IMP, Secs. 15-23-102 and 15-23-503 MCA; NEW, Eff. 4/5/74; AMD and TRANS, from ARM 42.22.1103, 1986 MAR p. 2072, Eff. 12/27/86.)

42.25.1104 MINING VERSUS NON-MINING PROCESSES (1) The gross value of minerals subject to tax will be determined at the point where mining processes end and manufacturing or non-mining processes begin. In general, mining includes overburden removal, blasting, loading, transportation between mining processes, sorting, reduction and drying. Processes which will be considered non-mining are fine grinding, burning or calcining, blending with other materials, and treatment effecting a chemical change and packaging.

(a) The points at which mining processes end for specific minerals are listed below.

MineralValuation Point

Bentonite	after crushing and drying
Gypsum	after crushing
Limestone	after crushing
Talc	after crushing and sorting
Vermiculite	after screening

(b) No deductions will be allowed for processing costs incurred beyond the valuation point. "After crushing" refers to after all crushing but before grinding. (History: Sec. 15-23-108 MCA; IMP, Secs. 15-23-502 and 15-23-503 MCA; NEW, 1988 MAR p. 1983, Eff. 9/9/88.)

42.25.1105 - COMPUTATION OF GROSS VALUE (1) Gross value for purposes of the mines net proceeds will be determined at the point where mining processes end and manufacturing or non-mining processes begin as discussed in ARM 42.25.1104.

(2) Gross value at the point of valuation will be determined using one of the following methods which are listed in the order they are to be considered.

(a) The producer's actual sales prices for mineral products sold at the point of valuation will be considered the best evidence of value provided the sales are arm's-length and represent approximately 30% of total mineral production. Sales of less than 30% of total production may be acceptable indicators of value if the sales price per unit is corroborated with other representative market data for minerals of like kind

and grade. Documentation for this method must be provided by the producer to the department on request.

(b) If the producer does not have the sales information discussed in (a), a market survey of other producers' sales of like kind and grade mineral products may be done. If this method is used, the producer must obtain market data for 3 or more other producers. This data must represent the results of competitive transactions in markets with a substantial number of unrelated buyers and sellers. The producer must document that all values used are for minerals of comparable quality sold in quantities approximating the producers level of production. It may also be necessary to consider the geographic area served by the markets used for comparison. All information obtained by the producer to support this method must be provided to the department on request.

(c) If the information required by (a) and (b) is not available, the proportionate profits method may be used to compute a value in the absence of adequate market data. The general formula for this computation is stated below.

$$\text{Taxable value/unit} = \frac{\text{Direct costs through valuation point}}{\text{Total direct costs}} \times \text{Sales price/unit}$$

(i) Direct costs through the valuation point will include overburden removal, drilling, blasting, loading, hauling, crushing, sorting, drying, mine reclamation, production taxes and royalties and any other direct costs incurred through the valuation point.

(ii) Total direct costs will include, in addition to those noted above, all direct costs applied to the mineral products up to the point of production of the first marketable product or group of products which have not been manufactured or fabricated. These costs will typically include grinding, burning or calcining, blending with other materials and treatment effecting a chemical change.

(iii) The sales price per unit will be the weighted average price of the first marketable product or group of substantially similar products sold in significant quantities by the producer.

(iv) Only direct costs may be used in computing the cost ratio for the formula. No costs that benefit the operation as a whole or are not directly related to a specific phase of the mining or processing of the mineral product will be included in the ratio.

(d) The department may use an alternative valuation method if warranted by an unusual situation. (History: Sec. 15-23-108 MCA; IMP, Sec. 5-23-502 and 15-23-503 MCA; NEW, 1988 MAR p. 2507, Eff. 11/24/88.)

SENATE TAXATION

EXHIBIT NO. 4

DATE 3-23-93

BILL NO. HB 382

**CONTINENTAL LIME INC.
H.B. 382 - NET PROCEEDS TAX ON LIMESTONE
USED TO MAKE QUICKLIME**

- The Net Proceeds Tax has been a problem to interpret and administer for decades.
- Almost all payors of the tax are now covered under special Bills or modifications.
- Using the Market Survey method of valuation for limestone has not met with approval from Department of Revenue. (Other limestone users are in various states of litigation).
- Using the Proportionate Profits method grossly overstates the value of limestone at the crusher. This is not in conformance with the Act, and results in an unfair, high tax burden.
- The Market Survey method results in a zero taxable value for Continental.
- We propose to pay based on a fixed net proceed of \$.34 per ton, which is the average paid by other producers in the last five years, excluding the years they paid nothing. The average including all years is half this.
- We believe this is a fair value, and will give the state and county a stable, predictable tax base, set by our limestone consumption.

CONTINENTAL LIME INC.
H.B. 382 - NET PROCEEDS TAX ON LIMESTONE
USED TO MAKE QUICKLIME

Financial Effect of Bill

Under the present "Net Proceeds" tax regulations, the gross value can be determined in one of three methods which is shown below, in preference order.

- (A) Producer's actual sales price for mineral products sold at the point of valuation, providing there is 30% of the mineral product being sold.
- (B) A market survey of other producer's sales of like kind and grade mineral product.
- (C) The proportional profits method in order to compute a value. The general formula for this computation is as follows:

$$\text{Taxable Value/Unit} = \frac{\text{Direct Costs Through Valuation Point}}{\text{Total Direct Costs}} \times \text{Sales price/unit}$$

This is the method that we were told to use by the DOR, and have done so in previous years.

Based on this formula, we valued our stone at \$10.15 for our operating year 1991, while the average for other limestone producers was \$3.39/ton.

With the filing of our December 31, 1992 Net Proceeds Tax return we have changed to method "B" above (Market Survey) to value our limestone. The value that we used is \$3.75/ton which was determined as a fair market value by an independent market survey. By using this value under the proportionate profits method, we had a Net Proceeds loss of \$369,000, which will result in a **NO TAX** situation. If, however, H.B. 382 passes and we refile our return based on the proposed net value of \$.34/ton, our Net Proceeds will be \$179,332.

If we are unsuccessful with this Bill, and we continue to file using Method (B), there is every reason to believe we will be in continued litigation as are some of the other limestone producers. As a consequence, the only ones to come out ahead are the attorneys.



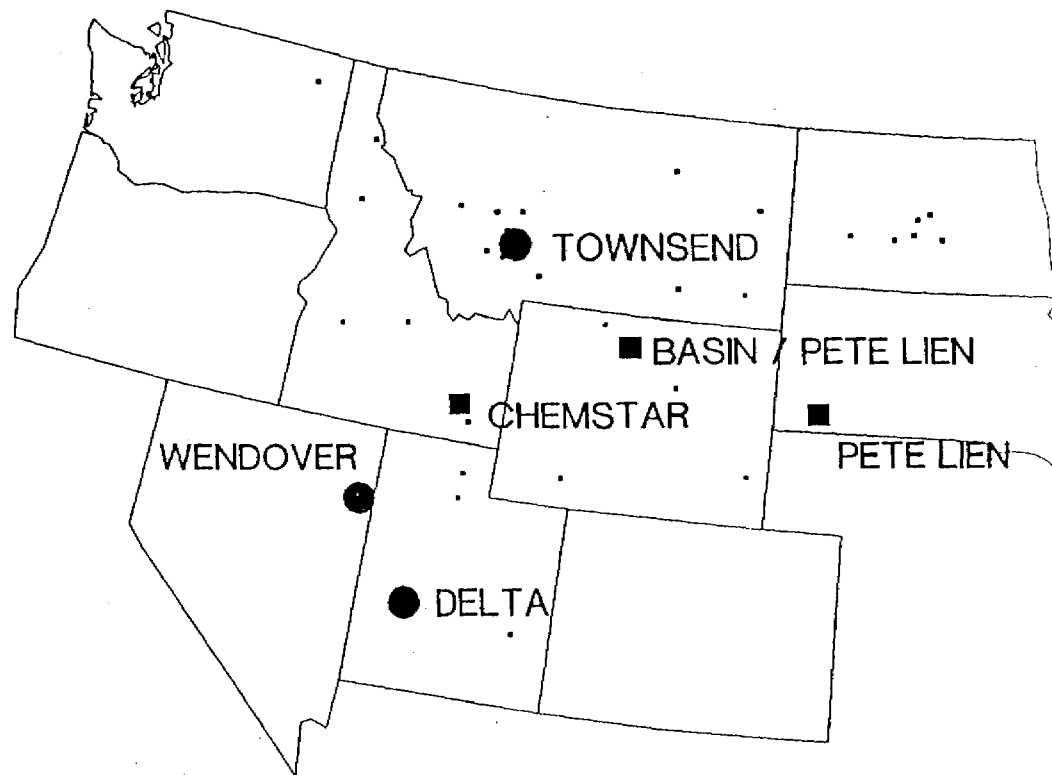
CONTINENTAL LIME INC.

EXHIBIT

4

DATE 3-23-93

PL HB-382



CONTINENTAL PLANTS
TOWNSEND, MT.
DELTA, UT.
WENDOVER, NV.

COMPETITOR PLANTS
CHEMSTAR
BASIN
PETE LIEN

- CLI LIME PLANT
- COMPETITORS PLANT
- CUSTOMERS

CONTINENTAL LIME INC.

INDIAN CREEK PLANT - TOWNSEND, MONTANA

NUMBER OF EMPLOYEES WORKING: 56

GROSS ANNUAL PAYROLL: \$1,943,000

STATE INCOME TAXES PAID: \$ 112,000

STATE PROPERTY TAXES PAID: \$ 913,000

GOODS & SERVICES/LOCAL: \$2,068,000

4
3-23-93
4B-382

CONTINENTAL LIME INC.
NET PROCEEDS TAX COMPARISONS 1988 - 1992
LIMESTONE PRODUCERS

LIMESTONE

COMPANY	TONS	GROSS VALUE	GROSS VALUE PER TON	DEDUCTIONS	NET PROCEEDS	NET PROCEEDS PER TON
<u>1992 TAX YEAR</u>						
CONTINENTAL LIME	507,329	\$5,151,953	\$10.15	\$2,082,899	\$3,069,054	\$6.05
HOLNAM INC.	445,071	1,295,157	2.91	1,028,677	266,480	.61
ASARCO	28,610	267,181	9.33	242,892	24,289	.84
ASH GROVE	421,183	1,474,141	3.50	1,599,942	0	0
<u>1991 TAX YEAR</u>						
CONTINENTAL LIME	302,851	\$3,091,262	\$10.21	\$1,317,514	\$1,773,748	\$5.86
HOLNAM INC.	487,576	1,331,082	2.73	1,427,803	0	0
ASARCO	35,212	296,932	8.43	269,938	26,994	.77
ASH GROVE	390,956	1,251,059	3.20	1,191,896	59,163	.15
<u>1990 TAX YEAR</u>						
CONTINENTAL LIME	300,563	\$3,035,494	\$10.10	\$1,292,532	\$1,742,962	\$5.80
MONTANA LIMESTONE CO.	204,368	854,429	4.18	764,136	90,293	.44
IDEAL BASIC IND.	508,950	865,215	1.70	1,515,512	0	0
ASARCO	30,633	258,217	8.42	234,743	23,474	.76
ASH GROVE	412,805	1,193,006	2.88	1,179,708	13,298	.03
<u>1989 TAX YEAR</u>						
CONTINENTAL LIME	317,439	\$2,764,522	\$8.70	\$1,263,354	\$1,501,168	\$4.73
IDEAL BASIC IND.	507,109	1,195,410	2.36	637,638	557,772	1.10
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ASHGROVE	404,868	1,125,533	2.77	1,381,355	0	0
<u>1988 TAX YEAR</u>						
CONTINENTAL LIME	130,213	\$5,596,758	\$42.98	\$4,491,323	\$1,105,435	\$8.49
IDEAL BASIC IND.	393,882	429,371	1.09	616,344	0	0
ASARCO	36,657	298,965	8.15	217,786	27,179	.74
ASHGROVE	320,542	882,315	2.75	1,295,045	0	0

DATE 3-23-93SENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: HB 196, 382, 519, 593

Name	Representing	Bill No.	Check One	
			Support	Oppose
Bill Kerns	BCRC	382	✓	
Jim Hoh	Brondwater Co	382	✓	
Bill Dreda	" "	382	✓	
Eden Thorway	" "	382	✓	
Gordon Morris	MACO	196		
Steve Brown	Continental Lime	382	✓	
Mark Sayet	Mont. Audubon Legislative Fund	HR 519	✓	
Don Shakin	Continental Lime Inc.	382	✓	
Dick Juntunen	Resource Management Ass	382	✓	
Mike Ferguson	DOT Aeronautics Div	593	✓	
Ann Marie Gritzuk	DNRC	519	✓	
Bill Dodick	Continental Lime	382	✓	
Brian Palmer	" "	382	✓	
Tennys Burr	MONTAX	382	✓	
David Owen	MT Chamber	519	✓	
Rich Mois	Treecycle Paper	519	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on April 2, 1993, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)

Members Excused: Sen. Bill Yellowtail (D)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 495, HB 505, HB 588, HB 645
Executive Action: HB 167, HB 181, HB 193, HB 196, HB 303,
HB 330, HB 350, HB 382, HB 402, HB 413, HB 436, HB 495,
HB 505, HB 516, HB 519, HB 539, HB 555, HB 559, HB 588,
HB 593, HB 645

HEARING ON HB 495

Opening Statement by Sponsor:

Rep. Jim Elliott, House District #51, presented HB 495, which is a bill to extend to restaurants who have a beer and wine license the ability to apply for an off-premises catering license from the Department of Revenue (DOR). This will bring these people in line with bars who currently have that license, and provides that only those establishments who are engaged primarily in the business of providing meals with table service may be able to apply for this endorsement.

MOTION/VOTE:

Senator Towe moved for adoption of the amendments as shown on Exhibit No. 13. (hb033001.ajm) The motion CARRIED UNANIMOUSLY on oral vote.

MOTION/VOTE:

Senator Towe moved HB 330 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY on oral vote. (741623SC.Sma) Senator Gage will carry the bill on the Senate floor.

EXECUTIVE SESSION ON HB 382MOTION/VOTE:

Senator Harp moved HB 382 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote. (741547SC.Sma) Senator Koehnke will carry the bill on the Senate floor.

EXECUTIVE SESSION ON HB 402DISCUSSION:

Senator Towe said the problem with HB 402 is that the collection may still be possible after bankruptcy. He thinks the bill should read that it would not include any property on which it may be determined that collection remains unlikely or improbable, such as property in bankruptcy or liquidation.

Senator Halligan recalled that Cort Harrington had indicated that if every effort has been made to locate the individual, by the time five years rolls around, there is no chance of collecting this personal property tax.

Upon questioning, there appeared to be no other committee member who was interested in pursuing the language Senator Towe was speaking offering, and Senator Towe said he did not wish to make an amendment to that effect.

MOTION/VOTE:

Senator Gage moved HB 402 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote. (741551SC.Sma) Senator Eck will carry the bill on the Senate floor.

ROLL CALL

SENATE COMMITTEE

TAXATION

DATE _____

4-2-93

[illegible]

FC8

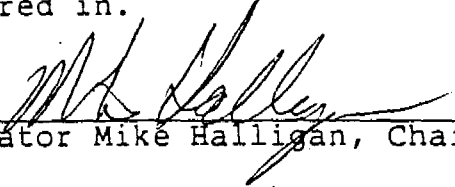
Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 2, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 382 (third reading copy -- blue), respectfully report that House Bill No. 382 be concurred in.

Signed: 
Senator Mike Halligan, Chair